

1 **R277. Education, Administration.**

2 **R277-800. Utah Schools for the Deaf and the Blind.**

3 **R277-800-1. Authority and Purpose.**

4 (1) This rule is authorized by:

5 (a) Utah Constitution [Article X, Section 3](#), which vests general control and
6 supervision over public education in the Board;

7 (b) Section [53E-8-204](#) which authorizes the Board to make rules regarding the
8 administration of the Utah Schools for the Deaf and the Blind;

9 (c) Section [53E-8-402](#), which directs the Board to establish entrance policies and
10 procedures to be considered, consistent with the IDEA, for student placement
11 recommendations at the USDB;

12 (d) Section [53E-8-409](#), which directs the Board to establish the USIMAC and
13 outline collaboration and operating procedures for USIMAC and USDB resources; and

14 (e) Subsection [53E-3-401](#)(4), which allows the Board to make rules to execute the
15 Board's duties and responsibilities under the Utah Constitution and state law.

16 (2) The purpose of this rule is to provide standards and procedures for the
17 operation of the USDB and the USDB outreach programs and services.

18

19 **R277-800-2. Definitions.**

20 (1) "Accessible media producer" means a company or agency that creates fully-
21 accessible, specialized, student-ready formats for curriculum materials, such as:

22 (a) Braille;

23 (b) large print;

24 (c) audio books; or

25 (d) digital books.

26 (2)(a) "Assessment" means the process of documenting, usually in measurable
27 terms, knowledge, skills, attitudes and abilities pertaining to the fields of vision and
28 hearing.

29 (b) An assessment may include the following areas of focus:

30 (i) a valid, reliable and appropriate assessment given to determine eligibility for
31 placement and services by a team of qualified professionals and a student's parent or
32 guardian;

33 (ii) a functional assessment accomplished by observation and measurement of
34 daily living skills and functional use of vision or hearing, or both; and

35 (iii) academic evaluations as part of the Statewide School Accountability System,
36 including an alternate assessment with appropriate accommodations as indicated on a
37 student's IEP.

38 (3)(a) "Campus-based program" means a program provided by USDB that offers
39 an alternative to an outreach program for students, ages three to 22, who are blind or
40 visually impaired, deaf or hard of hearing, or deafblind.

41 (b) Under a campus-based program, services are provided by qualified USDB
42 staff at a USDB site.

43 (4)(a) "The Chafee Amendment to the Copyright Act" or the "Chafee Amendment"
44 is a federal law, 17 U.S.C. 121, that allows an authorized entity to reproduce or distribute
45 copyrighted materials in specialized formats for students who are blind or have other print
46 disabilities without the need to obtain permission of the copyright owner.

47 (b) Authorized entities under the Chafee Amendment include governmental or
48 nonprofit organizations that have a primary mission to provide copyrighted works in
49 specialized formats for students who are blind or have other print disabilities.

50 (5) "Child Find" means activities and strategies designed to locate, evaluate, and
51 identify individuals eligible for services under the IDEA.

52 (6) "Consultation" means a meeting for discussion or seeking advice.

53 (7) "Designated LEA" means the local education agency assigned by a student's
54 IEP or Section 504 team to have primary responsibility for ensuring that all rights and
55 requirements regarding individual student assessment, eligibility services and procedural
56 safeguards are satisfied consistent with the IDEA.

57 (8) "Deafblindness" or "deafblind" means written verification provided by a medical
58 professional stating that an individual has concomitant hearing and visual impairments,

59 the combination of which causes such severe communication and other developmental
60 and educational needs that they cannot be accommodated in special education programs
61 solely for students with deafness or students with blindness.

62 (9) "Deafness" is a hearing impairment that is so severe that the student is
63 impaired in processing linguistic information through hearing, with or without amplification,
64 and that adversely affects a student's educational performance.

65 (10) "Educational Resource Center" or "ERC" is a center under the direction of
66 the USDB that:

67 (a) provides information, technology, and instructional materials to assist children
68 who are deaf, hard of hearing, blind, visually impaired, and deafblind in progressing in the
69 curriculum; and

70 (b) facilitates access to materials, information, and training for teachers and
71 parents of children who are deaf, hard of hearing, blind, visually impaired, and deafblind.

72 (11) "Extension classroom" means a classroom provided by an LEA where USDB
73 provides a full-time classroom teacher and related services to students who remain
74 enrolled in the LEA's general education programs.

75 (12) "Hearing loss" is an impairment in hearing, whether permanent or fluctuating,
76 that adversely affects a student's educational performance, but that is not included under
77 the definition of deafness.

78 (13) "National Instructional Materials Access Center" or "NIMAC" is a central
79 national repository that receives file sets in the NIMAS from publishers to maintain,
80 catalogue, and house for future reference file sets for states to use with students who
81 have print disabilities and require accessible alternate formats.

82 (14) "National Instructional Materials Accessibility Standard" or "NIMAS" means
83 the electronic standard that enables all producers of alternate formats for students with
84 print disabilities to work from one standard format available from publishers for this
85 purpose.

86 (15)(a) "Outreach program" is a program provided by the USDB that offers an
87 alternative to a campus-based program for students ages three to 22 who are blind or
88 visually impaired, deaf or hard of hearing, or deafblind.

89 (b) In an outreach program, services are provided at a student's resident school
90 or at a designated school by a qualified teacher of the blind or visually impaired, deaf or
91 hard of hearing, or deafblind.

92 (16)(a) "Related services" means transportation and such developmental,
93 corrective, and other supportive services as are required to assist a student with disability
94 to benefit from special education.

95 (b) Related services may include:

96 (i) speech-language pathology services;

97 (ii) audiology services;

98 (iii) interpreting services;

99 (iv) psychological services;

100 (v) physical and occupational therapy;

101 (vi) recreation, including therapeutic recreation;

102 (vii) early identification and assessment of disabilities in students;

103 (viii) counseling services, including rehabilitation counseling;

104 (ix) orientation and mobility services;

105 (x) health services and school nursing services;

106 (xi) social work services in schools;

107 (xii) parent counseling and training; or

108 (xi) low vision services.

109 (17) "Section 504 accommodation plan" means a plan required by Section 504 of
110 the Rehabilitation Act of 1973, which is designed to accommodate an individual who has
111 been determined, as a result of an evaluation, to have a physical or mental impairment
112 that substantially limits one or more major life activities.

113 (18) "Technical assistance" means assistance to public education employees,
114 licensed educators, parents, and families in significant areas of need by someone who
115 has the expertise necessary to give council and training in designated areas.

116 (19) "Utah State Instructional Materials Access Center" or "USIMAC" means a
117 center that receives NIMAS electronic file sets and produces them in the accessible
118 alternate format required by students with print disabilities.

119 (20)(a) "Visual impairment," is an impairment in vision that, even with correction,
120 adversely affects a student's educational performance.

121 (b) "Visual impairment" includes both partial sight and blindness that adversely
122 affect a student's educational performance.

123 (21) "Weighted pupil unit" or "WPU" means the basic unit used to calculate the
124 amount of state funds for which a school district or charter school is eligible.

125

126 **R277-800-3. Operation of USDB.**

127 (1) Consistent with Section [53E-8-204](#), the Board is the governing board of the
128 USDB.

129 (2) The USDB superintendent, appointed consistent with Subsection [53E-8-](#)
130 [204](#)(2), is subject to the direction of the Board and the Superintendent.

131 (3) The USDB superintendent shall serve subject to the following:

132 (a) the USDB superintendent's term of office is for two years and until a successor
133 is appointed;

134 (b) the Board shall set the USDB superintendent's compensation for services;

135 (c) the USDB superintendent shall have, at a minimum, an annual evaluation, as
136 directed by the Board;

137 (d) the USDB superintendent qualifications shall be established by the Board; and

138 (e) the duties of the USDB superintendent shall be established by the Board.

139 (4) The Superintendent shall support, provide assistance, and work cooperatively
140 with the USDB in providing services to designated Utah students.

141 (5) The Superintendent shall assign a liaison to provide appropriate supervision
142 to the USDB to ensure compliance with the law.

143 (6) The Superintendent shall assist the USDB, its superintendent, and associate
144 superintendents in adopting policies and preparing an annual budget that are consistent
145 with the law.

146 (7) The Board shall approve the annual budget and expenditures of USDB.

147 (8)(a) The USDB superintendent shall, subject to the approval of the Board,
148 appoint an associate superintendent to administer the Utah School for the Deaf and an
149 associate superintendent to administer the Utah School for the Blind.

150 (b) Qualifications of a USDB associate superintendent shall be aligned with the
151 requirements of Section [53E-8-204](#).

152 (9)(a) The USDB superintendent and associate superintendents may hire staff
153 and teachers as needed for the USDB.

154 (b) Educators and related service providers shall be appropriately licensed and
155 credentialed for their specific assignments.

156 (10) In employment practices and decisions, the USDB superintendent shall
157 maintain the accreditation of the USDB school and programs.

158 (11) The USDB superintendent and associate superintendents shall communicate
159 regularly and effectively with the Board and provide a written report to the Board at least
160 annually in adequate time prior to the November legislative interim meeting, or at such
161 other time as requested by the Board.

162 (12) The USDB report shall include the data required by Subsection [53E-8-204](#)(6).

163 (13) USDB shall ensure that each child or student served by USDB is assigned a
164 unique student identifier (SSID) to allow for annual data collection and reporting of
165 achievement of current and past students.

166 (14) USDB shall provide the Superintendent with a listing of past and current
167 children or students, including the assigned unique student identifier, served by USDB by
168 September 1 of each year to facilitate the required data collection.

169 (15) The USDB Advisory Council shall fulfill the role of a school community council
170 in accordance with Section R277-477-3.

171

172 ~~[R277-800-4. USDB Community Council.~~

173 ~~—— (1) The USDB shall establish a community council to operate in a comparable~~
174 ~~manner to a school community council under Section 53G-7-1202 through 53G-7-1203~~
175 ~~and Rule R277-491.~~

176 ~~—— (2) The USDB school community council and election process shall be the same~~
177 ~~as for a district school in Section 53G-7-1202 and Rule R277-491.~~

178 ~~—— (3) The USDB may implement electronic voting and consider encouraging school~~
179 ~~community council participation through electronic meetings and technology that facilitate~~
180 ~~participation of parents of USDB students.]~~

181

182 **R277-800-[5]4. USDB or Student's District of Residence/Charter School as**
183 **Designated LEA.**

184 (1) To be eligible to receive free services from the USDB, a student must meet the
185 requirements of Section [53E-8-401](#).

186 (2)(a) A student's IEP or Section 504 accommodation plan shall determine a
187 student's placement at the USDB, in a district school or charter school.

188 (b) USDB shall limit its services for students who are school-age to those on an
189 IEP or Section 504 accommodation plan.

190 (3) Consistent with Subsection [53E-8-401](#)(3), an IEP team or Section 504 team
191 shall determine the appropriate placement for each blind, deaf or deafblind student
192 consistent with Board Special Education Rules incorporated by reference in Section
193 [R277-750-2](#).

194 (4)(a) It is the responsibility of the student's district of residence or charter school
195 to conduct Child Find, and to convene the initial IEP or Section 504 team meeting in order
196 to determine a student's placement.

197 (b) A student's initial IEP or Section 504 accommodation plan meeting shall
198 include a representative from the student's district of residence or charter school and a
199 representative from the USDB.

200 (5)(a) If USDB is the designated LEA for a student, USDB has full responsibility
201 for all services defined in the student's IEP or Section 504 accommodation plan.

202 (b) Notwithstanding USDB's designation as LEA for a student, a representative
203 from the district of residence or charter school remains a required member of the IEP or
204 Section 504 accommodation plan team.

205 (6) If a district of residence or charter school is the LEA designated to provide
206 services to a student with an IEP or Section 504 accommodation plan, the district of
207 residence or charter school has the responsibility for providing instruction and services
208 for the student except that the USDB:

209 (a) may be designated by the team as a related service provider; and

210 (b) remains a required member of the student's IEP or 504 accommodation plan
211 team.

212 (7) A student's IEP or Section 504 accommodation plan shall clearly define what
213 services are to be provided by a related service provider.

214 (8) The IEP or Section 504 accommodation plan team shall determine the
215 designated LEA for student placement.

216 (9) If a parent is dissatisfied with a student's placement at USDB, the student's
217 district of residence, or charter school, the parent may access dispute resolution
218 procedures, consistent with Utah State Board of Education Special Education Rules,
219 adopted by the Board in Section [R277-750-2](#)

220 (10) If a student's IEP or Section 504 accommodation plan provides for services
221 to be provided by both the USDB and the student's district of residence, or for the USDB
222 and district of residence to share responsibility for serving a student, a parent may access
223 dispute resolution procedures consistent with Utah State Board of Education Special
224 Education Rules, adopted by the Board in Section [R277-750-2](#).

225

226 **R277-800-[6]5. Assessment of USDB Students Served in LEAs of Residence.**

227 (1) An appropriate specialist shall assess a student who may be deaf, hard of
228 hearing, blind, visually impaired, or deafblind using statewide assessment results and in
229 compliance with Board rule and state and federal law.

230 (2) The USDB shall establish an assessment policy and guidelines to implement
231 required assessments, which address:

232 (a) appropriate, complete, and timely evaluations of students;

233 (b) procedures for administration of assessments in addition to those required by
234 the law, as determined by IEPs, Section 504 accommodation plans, and individual
235 teachers;

236 (c) complete and accurate required assessments available to eligible students
237 consistent with state and LEA assessment timelines and availability of materials for non-
238 disabled students;

239 (d) staff professional development and preparation on appropriate administration
240 of assessments and reporting of assessment results; and

241 (e) procedures to ensure appropriate interpretation and use of assessments and
242 results for parents and USDB personnel.

243

244 **R277-800-[7]6. Extension Classrooms.**

245 (1) The USDB and an LEA may negotiate to share the costs for providing more
246 efficient, cost-effective, and convenient services to students who are deaf, blind, or
247 deafblind in extension classrooms in locations other than the USDB campus.

248 (2) If the USDB and an LEA enter into an agreement in accordance with
249 Subsection (1), the LEA shall provide:

250 (a) classrooms;

251 (b) basic instructional materials;

252 (c) physical education, music, media, school lunch, and other programs and
253 services, consistent with those programs and services provided to other students within
254 the LEA;

- 255 (d) administrative support;
- 256 (e) basic secretarial services;
- 257 (f) special education and related services; and
- 258 (g) IT support.

259 (3) If the USDB and an LEA enter into an agreement in accordance with
260 Subsection (1), the USDB shall provide:

- 261 (a) classroom instructors, including aides; and
- 262 (b) instructional materials specific to the disability of the students.

263 (4) An agreement pursuant to Subsection (1) may reassign the responsibilities of
264 the USDB and a school district or charter school as negotiated between the LEA and the
265 USDB.

266 (5) An LEA shall claim the state WPU if the LEA provides all items or services
267 identified in Subsection (2).

268

269 **R277-800-[8]7. USDB Fiscal Procedures.**

270 (1) The USDB shall keep fiscal, program, and accounting records as required by
271 the Board and shall submit reports required by the Board.

272 (2) The USDB shall follow state standards for fiscal procedures, auditing, and
273 accounting, consistent with Subsection [53E-8-203](#)(3).

274 (3) The USDB is a public state entity under the direction of the Board and as such
275 is subject to state laws and exemptions consistent with Section [53E-8-203](#).

276 (4)(a) The USDB shall prepare and present an annual budget to the Board that
277 includes no more than a five percent carryover of any one fund, including reimbursement
278 funds from federal programs.

279 (b) The five percent carryover prohibition does not apply to funds received under
280 Section [53F-2-404](#) and Section 12 of the Utah Enabling Act.

281 (5)(a) The Superintendent shall recover federal reimbursement funds (IDEA and
282 Medicaid) quarterly during the year.

283 (b) The Superintendent shall identify reimbursement amounts in the current year's
284 budget, but in no event later than the subsequent year's budget.

285 (6)(a) The USDB shall use the revenue from the federal trust land grant designated
286 for the benefit of the blind and the deaf, solely for the benefit of deaf, blind, and deafblind
287 students.

288 (b) The recommended or designated use of federal trust land funds is subject to
289 review by the Board.

290

291 **R277-800-[9]8. Utah State Instructional Materials Access Center.**

292 (1) ~~[The]~~ USIMAC shall produce core ~~[instructional]~~ educational materials,
293 including print and digital textbooks and related core materials, in ~~[alternative]~~ accessible
294 formats to ensure that all students ~~[with print disabilities qualified]~~ eligible under the
295 Chafee Amendment receive their materials in a timely manner.

296 ~~[(2) The USIMAC shall provide materials for all students with print disabilities who
297 are qualified under the Chafee Amendment or otherwise eligible through an IEP or
298 Section 504 accommodation plan.]~~

299 ~~[(3)]~~2) The Superintendent shall oversee the operations of the USIMAC.

300 ~~[(4)]~~3) The USDB is the fiscal agent and operates the USIMAC to the extent of
301 funds received annually from ~~[the Utah Legislature and the Board]~~ budgetary
302 appropriations.

303 ~~[(5)]~~4) An LEA may purchase or provide accessible ~~[instructional]~~ educational
304 materials from another source using the LEA's own funding or request the production of
305 accessible ~~[instructional]~~ educational materials in ~~[alternate]~~ accessible formats from ~~[the]~~
306 USIMAC in accordance with established ~~[opt-in]~~ procedures to ensure timely access for
307 eligible students ~~[with print disabilities]~~.

308 ~~[(6)]~~5)(a) USIMAC shall provide a textbook and related core educational materials
309 in an ~~[alternate]~~ accessible format by the beginning of the school year if requested no
310 later than April 1 of the preceding school year by an LEA.

311 (b) Notwithstanding Subsection (5)(a), if an LEA requests educational materials in
312 braille, USIMAC will provide the first three volumes of a textbook by the beginning of the
313 school year, and will provide additional volumes ahead of the pacing guide submitted by
314 the LEA.

315 ~~([7]6)~~ The USDB ~~[ERC]~~ Educational Resource Center shall serve as the repository
316 and distribution center for ~~[the]~~ USIMAC.

317 ~~([8]7)~~ A student ~~[qualifies]~~ is eligible for accessible ~~[instructional]~~ educational
318 materials from ~~[the]~~ USIMAC, including Braille, audio, large print, or ~~[digital formats]~~
319 accessible PDFs, following an LEA determination that the student ~~[has a print disability]~~
320 is eligible in accordance with:

321 (a) the Chafee Amendment;

322 (b) IDEA; or

323 (c) Section 504 of the Rehabilitation Act.

324 ~~([2]8)(a)~~ An LEA may request textbooks consisting of static text and images for
325 ~~[blind, vision impaired or deafblind]~~ eligible students served by the USDB or the LEA
326 consistent with a student's IEP or Section 504 accommodation plan.

327 ~~[(b)(i) When an LEA requests a core instructional textbook the USIMAC shall~~
328 ~~conduct a search for the textbook within existing resources, and if the textbook is~~
329 ~~available, the USIMAC shall send the textbook to the ERC for distribution to the LEA.~~

330 ~~——(ii) If a textbook is not available within existing resources, the USIMAC will conduct~~
331 ~~a search to determine if the textbook is available for purchase through another source.~~

332 ~~——(iii) If a textbook is available through the American Printing House for the Blind~~
333 ~~(APH), the USDB shall order the textbook using state-acquired federal funds designated~~
334 ~~specifically for USIMAC materials and send the textbook to the ERC for distribution to the~~
335 ~~LEA.~~

336 ~~——(iv) If a textbook is not available from APH, but is available from another accessible~~
337 ~~media producer, the textbook shall be purchased and sent to the ERC for distribution to~~
338 ~~the LEA.~~

339 ~~_____ (v) If a textbook is not available for purchase, the LEA shall provide a regular print~~
340 ~~hard copy of the textbook to the USIMAC, which shall then produce the textbook and~~
341 ~~send it to the ERC for distribution.]~~

342 (9) When an LEA requests a core instructional textbook, USIMAC may:

343 (a) provide the textbook to the LEA from its existing inventory;

344 (b) purchase the textbook and provide the textbook to the LEA from another
345 source, which may include;

346 (i) the American Printing House for the Blind using state acquired federal funds
347 designated specifically for USIMAC materials; or

348 (ii) another accessible media producer; or

349 (c)(i) provide a regular hard print copy of the textbook, or equivalent digital file in
350 PDF format for digital print textbooks; and

351 (ii) produce and distribute the textbook in the needed accessible format.

352 (10)(a) An LEA or publisher shall send hard copy and digital textbooks and related
353 core educational materials adopted by the LEA to the NIMAC in a valid XML-based
354 NIMAS format for use in the production of accessible formats such as braille, large print,
355 and digital text.

356 (b)(i) Teacher-created educational materials, other than textbooks and related
357 educational materials approved by an LEA, are not eligible for submission to USIMAC.

358 (ii) An LEA is responsible to make materials described in Subsection (b)(i)
359 accessible and to provide the materials to students in a timely manner.

360 ([3]11)(a) All approved textbook and digital textbook contracts for the state of Utah
361 for [instructional] educational materials, textbooks, and related core printed materials
362 [published after August 2006] shall include a provision for making NIMAS file sets
363 available through the NIMAC in accordance with the IDEA and Board Instructional
364 Materials Contract timelines.

365 (b) If [the] USIMAC is unable to obtain the NIMAS file set from the NIMAC because
366 the publisher fails to timely provide the NIMAS file set to the NIMAC in accordance with
367 the IDEA and Board Instructional Materials Contract timelines, [the] USIMAC may:

368 (i) bill the textbook publisher the difference in the cost of producing the alternate
369 format textbook without the benefit of the NIMAS file set; or

370 (ii) request authorization from the Board to seek damages from the publisher for
371 failure to meet contract provisions.

372 (c) The Superintendent shall advise publishers of the provisions of this Subsection
373 (~~3~~11).

374 (d) The Utah Instructional Materials Commission created under Rule [R277-469](#)
375 may not approve textbooks and materials from publishers that have a pattern of not
376 providing materials and textbooks for students with disabilities in a timely manner,
377 consistent with the law and Board rules.

378 (~~4~~12)(a) An LEA may request and access audio books through ~~the~~ USIMAC,
379 as appropriate, or through other sources.

380 (b) Membership required for other sources is the responsibility of the LEA
381 designated as the responsible entity for serving the student in the IEP or Section 504
382 accommodation plan.

383

384 ~~[R277-800-10. Effective Date.~~

385 ~~— This rule is effective July 1, 2021.]~~

386

387 **KEY: educational administration**

388 **Date of Last Change: March 11, 2021**

389 **Notice of Continuation: August 19, 2021**

390 **Authorizing, and Implemented or Interpreted Law: [Art X Sec 3](#); [53E-3-401\(4\)](#); [53E-](#)
391 [8-204](#); [53E-8-402](#); [53E-8-409](#)**